

TRYAL

OF

William Penn,

AND

William Mead,

At the Sessions held in the *Old-Baily*, *London*, the First, Third, Fourth, and Fifth, of *September*, 1670; for *Unlawfully and Tumultuously Assembling in Grace-Church-Street*.

S H E W I N G

The *Arbitrary, Illegal, and Tyrannical Proceedings of the High-Church Party at that Time*.

Isa. X. 1, 2 *Wo unto them that Decree unrighteous Decrees, and Write Grievousness, which they have prescrib'd, to turn away the Nedy from Judgment, and to take away the Right from the Poor, &c.*

Psaln XCIV. 20. *Shall the Throne of Iniquity have fellowship with thee, which frameth Mischief by a Law?*

Sic volo, sic jubeo, sitat pro ratione voluntas.

L O N D O N

Printed, and Sold by *J. How*, in *Talbot-Court*, in *Grace-Church-Street*; *T. Harrison*, near the *Royal Exchange* in *Cornhill*; and *J. Baker*, in *Pater-Noster-Row*, 1710.

Price Two Pence.

THE
JOURNAL

OF THE
PROCEEDINGS

OF THE
COUNCIL

OF THE
MAYOR

OF THE
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TO THE
English Reader.

IF ever it were time to Speak, or Write, 'tis now, so many strange Occurrences requiring both.

How much thou art concern'd in this ensuing Trial, where, not only the Prisoners, but the Fundamental Laws of England, have been most Arbitrarily Arraign'd: Read, and thou may'st plainly judge.

Liberty of Conscience, is counted a Pretence for Rebellion, and Religious Assemblies, Routs, and Riots; and the Defenders of both, are by them reputed Factionous and Disaffected.

Magna Charta, is Magna Fard — with the Recorder of London; and to demand Right, an Affront to the Court.

Will and Power are Their great Charter, but to call for England's, is a Crime, incurring the penalty of their Bale-dock, and Nasty-Hole; nay, the menace of a Gag, and Iron shackles too.

The Jury, though proper Judges of Law and Fact, they would have Over-ruled in both, as if their Verdict signify'd no more, than to Eccho back the Illegal Charge of the Bench; and because their Courage and Honesty did more than bold pace with the Threat and Abuse of those who sat as Judges, after two Days and two Nights restraint for a Verdict, in the End were find and Imprison'd for giving it.

O! what monstrous and illegal Proceedings are these? Who reasonably can call his Coat his own, when Property is made subservient to the Will and Interest of his Judges? Or, who can truly esteem himself a Free-Man, when all Pleas for Liberty are esteem'd Sedition, and the Laws, that Give, and maintain them, so many insignificant pieces of Formality?

And what do they less than plainly tell us so, who, at Will and Pleasure, break open our Locks, rob our Houses, raise their foundations, imprison our Persons, and finally deny us Justice our relief; as if they acted most like Christian Men, when they were most Barbaxons, in Ruining such as are really so;

and that no Sacrifice could be so acceptable to God, as the Destruction of those that most fear him?

In short, That the Conscientious should only be Obnoxious and the just demand of our Religious Liberty, the reason why we should be deny'd our civil Freedom, as if to be a Christian and an English-man, were inconsistent, and that so much Solicitude and deep Contrivance, should be imploy'd only to Ensnare, and Ruin, so many ten thousand Conscientious Families, so eminently Industrious, Serviceable, and Exemplary, whilst Murders can so easily obtain pardons, Rapes be remitted, publick Uncleannes pass unpunish'd, and all manner of Levity, Prodigality, Excess, Prophaneness, and Atheism, universally conniv'd at, (if not, in some respect, manifestly encouraged) cannot but be detestable abhorrent to every serious and honest Mind.

Yet that this lamentable State is true, and the present Project in hand, let London's Recorder, and Canterbury Chaplain be heard.

The First, In his publick Panegyrick upon the Spanish Inquisition, highly admiring the prudence of the Romish Church, in the erection of it, as an excellent way to prevent Schism, which unhappy Expression, at once passeth Sentence, both against our fundamental Laws, and Protestant Reformation.

The Second, In his Printed Mercenary Discourse against Toleration, asserting, for a main Principle, That it would be less Injurious to the Government, to dispence with Prophane and Loose Persons, than to allow a Toleration to Religious Dissenters: It were to over-do the business, say any more, where there is so much said already.

And therefore to Conclude, We cannot choose but Admonish all, as well Persecutors, to relinquish their Heady, Partial and Inhumane Prosecutions (as what will certainly issue in Disgrace here, and inevitable condign Punishment hereafter, as those who yet dare express their Moderation, however out of fashion, or made the brand of Phanaticism, not to Huf'd, or Menaced out of that excellent Temper, to make the Parts and Persons subservient to the base Humours, and sinister Designs of the biggest Mortal upon Earth: But to reverence and obey the Eternal Just God, before whose great Tribunal all must render their accounts, and where he will compence to every Person according to his Works.

THE TRYAL OF Will. Penn and Will. Mead.

AS there can be no Observation where there is no Action; so its impossible there should be a judicious Intelligence without due Observation.

And since there can be nothing more Seasonable, than a right Information, especially of *Publick Acts*; and well knowing how industrius some will be to mis-represent this Tryal to the Disadvantage of the Cause and Prisoners, it was thought requisite, in Defence of Both, and for the Satisfaction of the People, to make it more publick; nor can there be any Business wherein the People of *England* are more concern'd than in that which relates to their Civil and Religious Liberties, question'd in the Persons above-nam'd, at the *Old-Baily*, the First, Third, Fourth, and Fifth of *Sept.* 1670.

There being present on the Bench, as Justices.

Sam. Starling, Mayor,
John Howel, Recorder.
Tho. Bludworth, Alder.
William Peak, Alderm.
Richard Ford, Alderm.

} }

John Robinson, Alderm.
Joseph Shelden, Alderm.
Richard Brown.
John Smith,
James Edwards, } Sheriffs.

The Citizens of *London* that were Summon'd for JURORS, appearing, were Impannell'd, viz.

Clar. Call over the Jury.

Cryer. O yes, *Thomas Veer*, *Ed. Busbel*, *John Hammond*, *Charles Wilson*, *Gregory Walklet*, *John Brightman*, *Wil. Plumsted*, *Hen. Henly*, *James Damask*, *Henry Michell*, *Wil. Lever*, *John Bailly*.

The Form of the Oath.

You shall well and truly Try, and true Deliverance make betwixt our Sovereign Lord the King and the Prisoners at the Bar, according to your Evidence; So help you God.

The INDICTMENT.

That *William Penn*, Gent. and *William Mead*, late of *London*, *Linnen-Draper*, with divers other Persons, to the Jurors unknown, to the number of Three Hundred, the 14th Day of *August*, in the 22^d. Year of the King, about Eleven of the Clock in the Forenoon, the same Day,

with Force and Arms, &c. in the Parish of St. Bennet Grace-Church in Bridge-Ward, London, in the Street called Grace-Church-Street. Unlawfully and Tumultuously did Assemble and Congregate themselves together, to the disturbance of the Peace of the said Lord the King: And the aforesaid *William Penn*, and *William Mead*, together with other Persons, to the Jurors aforesaid unknown, then and there so Assembled, and Congregated together; the aforesaid *William Penn* by agreement between him and *William Mead* before made, and by abetment of the aforesaid *William Mead*, then and there, in the open Street, did take upon himself to Preach and Speak; and then, and there did Preach and Speak, unto the aforesaid *William Mead*, and other Persons there, in the Street aforesaid, being Assembled and Congregated together, by reason whereof a great Concourse and Tumult of People in the Street aforesaid, then and there, a long time did remain and continue, in Contempt of the said Lord the King, and of his Law, to the great disturbance of his Peace, to the great terror and disturbance of many of his Leige People and Subjects, to the ill Example of all others, in the like Case Offenders, and against the Peace of the said Lord the King, his Crown, and Dignity.

Wat say you, *William Penn* and *William Mead*: are you Guilty, as you stand Indicted, in Manner and Form, as aforesaid, or not Guilty?

Penn. It is impossible, that we should be able to remember the Indictment verbatim, and therefore we desire a Copy of it, as is usual mary in the like Occasions.

Rec. You must first plead to the Indictment, before you can have Copy of it.

Penn. I am unacquainted with the formality of the Law; and therefore, before I shall answer directly, I request two Things of the Court. First, That no Advantage may be taken against me, nor I depriv'd of any Benefit, which I might otherwise have receiv'd. Secondly, That you will promise me a fair Hearing, and liberty of making my Defence.

Court. No Advantage shall be taken against you; you shall have liberty; you shall be Heard.

Penn. Then I plead not Guilty in manner and form.

Cla. What sayst thou, *William Mead*: art thou guilty in manner and form, as thou standest Indicted, or not Guilty?

Mead. I shall desire the same liberty as is promis'd *William Penn*.

Court. You shall have it.

Mead. Then I plead not Guilty in manner and form.

The Court adjourn'd untill the Afternoon.

Cryer. O Yes, &c.

Cla. Bring *William Penn* and *William Mead* to the Bar.

Obser. The said Prisoners were brought, but were set aside, and other Business Prosecuted. Where we cannot choose but observe That it was the constant and unkind Practices of the Court, to the Prisoners, to make them wait upon the Tryals of Fellons & Murderers thereby designing, in all probabillity, both to affront and tire them.

After Five Hours Attendance, the Court broke up, and Adjourn'd to the third Instant.

The Third of September, 1670. the Court sat.

Cryer. O Yes! &c.

Clk. Bring William Penn and William Mead to the Bar.

Mayor. Sitrah, who bid you put off their Hats? Put on their Hats again.

Obser. Whereupon one of the Officers putting the Prisoners Hats upon their Heads (pursuant to the Order of the Court) brought them to the Bar.

Record. Do you know where you are?

Penn. Yes.

Record. Do not you know it is the King's Court?

Penn. I know it to be a Court, and I suppose it to be the King's Court.

Record. Do you not know there is Respect due to the Court?

Penn. Yes.

Rec. Why do you not pay it then?

Penn. I do so.

Record. Why do you not put off your Hat then?

Penn. Because I do not believe that to be any Respect.

Recor. Well; the Court sets forty Marks a-piece upon your Heads, as a Fine for your contempt of the Court.

Penn. I desire it might be observ'd, That we came into the Court with our Hats off, (that is, taken off) and if they have been put on since, it was by Order from the Bench; and therefore not we, but the Bench should be Fin'd.

Mead. I have a Question to ask the Recorder: Am I Fin'd also?

Recor. Yes.

Mead. I desire the Jury, and all People, to take Notice of this Injustice of the Recorder, who spake not to me to pull off my Hat, and yet hath he put a Fine upon my Head. O fear the Lord, and dread his Power, and yield to the guidance of his holy Spirit; for he is not far from every one of you.

The Jury Sworn again.

Obser. F. Robinson, Lieutenant of the Tower, disingeniously objected against Edward Bushel, as if he had not kiss'd the Book, and therefore would have him sworn again; tho' indeed, it was on purpose to have made use of his tenderness of Conscience, in avoiding re-iterated Oaths, to have put him by his being a Jury-man, apprehending him to be a Person, not fit to answer their Arbitrary Ends.

The Clerk read the Indictment, as aforesaid.

Clk. Cryer, call James Cook into the Court; give him his Oath.

Clk. James Cook, lay your Hand upon the Book; The Evidence you shall give to the Court, betwixt our Sovereign the King, and the Prisoners at the Bar, shall be the Truth, and the whole Truth, and nothing but the Truth; so help you God, &c.

Cook. I was sent for, from the Exchange, to go and disperse a Meeting in Grace-Church-Street, where I saw Mr. Penn speaking to the People, but I could not hear what he said, because of the noise; I endeavour'd to make way to take him, but I could not get to him for the Crowd of People; upon which Captain Mead came to me, about the Kennel of the Street, and desired me to let him go on; for when he had done, he would bring Mr. Penn to me.

Court. What Number do you think might be there?

Cook. About three or four hundred People.

Cour. Call Richard Reed, Give him his Oath.

Reed being sworn, was ask'd, what do you know concerning the Prisoners at the Bar.

Read. My Lord, I went to Grace-Church-Street, where I found a great Crowd of People, and I heard Mr. Penn Preach to them; and I saw Captain Mead speaking to Lieutenant Cook, but what he said I could not tell.

Mead. What did William Penn say?

Read. There was such a great Noise, that I could not tell what he said.

Mead. Fury observe this Evidence, he saith he heard him preach, and yet saith, He doth not know what he said.

Fury take Notice, he swears now a clean contrary Thing, to what he swore before the Mayor, when we were committed: For now he swears that he saw me in Grace-Church-Street, and yet swore before the Mayor, when I was committed, that he did not see me there. I appeal to the Mayor himself, if this be not true; but no Answer was given.

Cour. What Number do you think might be there?

Read. About four or five Hundred.

Penn. I desire to know of him what Day it was?

Read. The 14th Day of August.

Penn. Did he speak to me, or let me know he was there? For I am very sure I never saw him.

Clar. Cryer, Call ——— into the Court.

Cour. Give him his Oath.

—— My Lord, I saw a great Number of People, and Mr. Penn, I suppose was speaking; I see him make a Motion with his Hands, and heard some Noise, but could not understand what he said; but for Captain Mead, I did not see him there.

Rec. What say you Mr. Mead? Were you there?

Mead. It is a Maxim in your own Law, *Nemo tenetur accusare seipsum*, which if it be not true Latin, I am sure it is true English, That no Man is bound to accuse himself: And why do'st thou offer to ensnare me with such a Question? Doth not this shew thy Malice? Is this like unto a Judge, that ought to be Counsel for the Prisoner at the Bar?

Record. Sir, Hold your Tongue; I did not go about to ensnare you.

Penn. I desire we may come more close to the Point, and that Silence be commanded in the Court.

Cry. O yes, All manner of Persons keep Silence, upon pain of Imprisonment. ——— Silence in the Court.

Penn. We confess our selves to be so far from recanting, or declining to vindicate the Assembling of our selves, to Preach, Pray, or Worship the Eternal, Holy, Just God, that we declare to all the World, that we do believe it to be our indispensable Duty, to meet incessantly upon so good an Account; nor shall all the Powers upon Earth be able to divert us from Reverencing and Adoring our God, who made us.

Brown. You are not here for Worshipping God, but for Breaking the Law: You do your selves a great deal of Wrong in going on in that Discourse.

Penn. I affirm I have broken no Law, nor am I guilty of the Indictment that is laid to my Charge; and to the End, the Bench, the Jury, and my self, with these that hear us, may have a more direct Understanding of this Procedure. I desire you would let me know by what Law it is you Prosecute me, and upon what Law you ground my Indictment.

Rec. Upon the Common-Law,

Penn.

Penn. Where is that Common-Law?

Rec. You must not think that I am able to run up so many Years, and over so many. adjudg'd Cases, which we call Common-Law; to answer your Curiosity.

Penn. This Answer I am sure is very short of my Question; for if it be Common, it should not be so hard to produce.

Rec. Sir, will you plead to your Indictment?

Penn. Shall I plead to an Indictment, that hath no Foundation in Law? If it contain that Law you say I have broken, why should you decline to produce that Law, since it will be impossible for the Jury to determine, or agree to bring in their Verdict, who have not the Law produced by which they should measure the Truth of this Indictment, and the Guilt, or Contrary, of my Fact?

Rec. You are a saucy Fellow: Speak to the Indictment.

Penn. I say, it is my Place to speak to matter of Law; I am arraign'd a Prisoner, my Liberty, which is next to Life it self, is now concern'd, you are many Mouths and Ears against me, and if I must not be allow'd to make the best of my Case, it is hard: I say again, unless you shew me, and the People, the Law you ground your Indictment upon, I shall take it for granted, your Proceedings are meerly Arbitrary.

Obser. At this Time several upon the Bench urg'd hard upon the Prisoner to bear him down.

Rec. The Question is whether you are guilty of this Indictment?

Penn. The Question is not whether I am guilty of this Indictment, but whether this Indictment be Legal, it is too general and imperfect an Answer, to say it is the Common-Law, unless we knew both where, and what it is; for where there is no Law, there is no Transgression; and that Law which is not in Being, is so far from being Common, that it is no Law at all.

Rec. You are an impertinent Fellow: Will you teach the Court what Law is? It's Lex non scripta, that which many have studied thirty or forty Years to know, and would you have me tell you in a Moment?

Penn. Certainly, if the Common-Law be so hard to be understood, it's far from being very Common; but if the Lord Cook in his Institutes, be of any Consideration, he tells us, That Common-Law is Common Right, and that Common Right is the great Charter-Priviledges, Confirm'd 9 Hen. 3. 29. 25 Edw. 1. 1. 2 Edw. 3. 8. Cook Inst. 2. p. 56.

Rec. Sir, you are a troublesome Fellow, and it is not for the Honour of the Court to suffer you to go on.

Penn. I have ask'd but one Question, and you have not answer'd me; though the Rights and Priviledges of every English-man be concern'd in it.

Rec. If I should suffer you to ask Questions till to Morrow Morning you would be never the wiser.

Penn. That is according as the Answers are.

Rec. Sir, We must not stand to hear you talk all Night.

Penn. I design no Affront to the Court, but to be heard in my just Plea; and I must plainly tell you, that if you will deny me Oyer of that Law, which you suggest I have broken, you do at once deny me an acknowledg'd Right, and evidence to the whole World your Resolution to sacrifice the Priviledges of English-men, to your Sinister and Arbitrary Designs.

Rec.

Rec. Take him away: My Lord, if you take not some Course with this pestilent Fellow, to stop his Mouth, we shall not be able to do any Thing to Night.

May. Take him away, take him away, turn him into the Bale-dock.

Penn. These are but so many vain Exclamations; Is this Justice or true Judgment? Must I therefore be taken away because I plead for the Fundamental Laws of England? However, this I leave upon your Consciences, who are of the Jury (and my sole Judges) that if these Antient fundamental Laws, which relate to Liberty and Property, and (are not limited to particular Perswasions in matters of Religion) must not be indispensibly maintain'd and observ'd. Who can say he hath Right to the Coat upon his Back? Certainly our Liberties are openly to be invaded, our Wives to be ravish'd, our Children slay'd, our Families ruin'd, and our Estates led away in Triumph, by every sturdy Beggar and malicious Informer, as their Trophies, but our (pretended) Fortlets for Conscience sake; the Lord of Heaven and Earth will be Judge between us in this Matter.

Rec. Be silent there.

Penn. I am not to be silent in a Case wherein I am so much concern'd, and not only my self, but many ten thousand Families besides.

Obser. They having rudely haled him into the Bale-dock, *William Mead* they left in Court, who spake as followeth.

Mead. You Men of the Jury, here I do now stand to answer to an Indictment against me, which is a Bundle of Stuff, full of Lyes and Falshoods; for therein I am accused, that I met *Vi Et Armis, Illicite et Tumultuose*: Time was, when I had Freedom to use a carnal Weapon, and then I thought I fear'd no Man; but now I fear the Living God, and dare not make Use thereof, nor hurt any Man; nor do I know I demean'd my self as a tumultuous Person: I say, I am a peaceable Man, therefore it is a very proper Question what *William Penn* demanded in this Case, An Oyer of the Law, on which our Indictment is grounded.

Rec. I have made Answer to that already.

Mead. Turning his Face to the Jury, saith, You Men of the Jury, who are my Judges, if the Recorder will not tell you what makes a Riot, a Rout, or an unlawful Assembly, *Cook*, he that once they called the Lord Cook, tells us what makes a Riot, a Rout, or an unlawful Assembly — A Riot is when three, or more, are met together to beat a Man, or to enter forcibly into another Man's Land, to cut down his Grasse, his Wood, or break down his Pales.

Obser. Here the Recorder interrupted him, and said, *I thank you, Sir, that you will tell me what the Law is*, scornfully pulling off his Hat.

Mead. Thou may'st put on thy Hat, I have never a Fee for thee now.

Brown. He talks at random, one while an Independent, another while some other Religion, and now a Quaker, and next a Papist.

Mead. Turpe est doctorum cum culpa redarguit ad ipsum.

May. You deserve to have your Tongue cut out.

Rec. If you discourse on this matter, I shall take occasion against You.

Mead. Thou did'st promise me, I should have fair Liberty to be heard. Why may I not have the Priviledge of an English-man? I am an English-man, and you might be asham'd of this Dealing.

Rec. I look upon You to be an Enemy to the Laws of England, which
ou, b

ought to be observ'd and kept, nor are you worthy of such Privileges as others have.

Mead. The Lord is Judge between me and thee in this Matter.

Obser. Upon which they took him away into the Bale-dock, and the Recorder proceeded to give the Jury their Charge, as followeth.

Rec. You have heard what the Indictment is, it is for preaching to the People, and drawing a tumultuous Company after them, and Mr. Penn was speaking; if they should not be disturb'd, you see they will go on; there are three or four Witnesses, that have proved this, that he did preach there, that Mr. Mead did allow of it; after this, you have heard by substantial Witnesses what is said against them: Now we are upon the Matter of fact, which you are to keep to, and observe as what hath been fully sworn at your Peril.

Obser. The Prisoners were put out of the Court, into the Bale-dock, and the Charge given to the Jury in their Absence, at which W. P. with a very raised Voice, it being a considerable distance from the Bench, spake,

Penn. I appeal to the Jury, who are my Judges, and this great Assembly, whether the Proceedings of the Court are not most arbitrary, and void of all Law, in offering to give the Jury their Charge in the Absence of the Prisoners; I say, it is directly opposite to, and destructive of the undoubted Right of every English Prisoner, as Cook in the 2. Inst. 29. on the chap. of Magna Charta speaks.

Obser. The Recorder being thus unexpectedly lash'd for his extrajudicial Procedure, said with an irrag'd Smile.

Rec. Why, ye are present, you do hear, do you not?

Penn. No Thanks to the Court, that commanded me into the Bale-dock; and you of the Jury take notice, that I have not been heard, neither can you legally depart the Court, before I have been fully heard, having at least ten or twelve material Points to offer, in order to invalidate this Indictment.

Rec. Pull that Fellow down, pull him down.

Mead. Are these according to the Rights and Privileges of Englishmen, that we should not be heard, but turn'd into the Bale dock, for making our Defence, and the Jury to have their Charge given them in our Absence? I say these are barbarous and unjust Proceedings.

Rec. Take them away into the Hole; to hear them Talk all Night, as they wou'd, that I think doth not become the Honour of the Court, and I think you (i. e. the Jury) your selves would be tired out, and not have Patience to hear them.

Obser. The Jury were commanded up to agree upon their Verdict, the Prisoners remaining in the stinking Hole; after an Hour and halfs time Eight came down agreed, but four remain'd Above: The Court sent an Officer for them, and they accordingly came down: The Bench used many unworthy Threats to the four that Dissented; and the Recorder, addressing himself to Bushe, said, Sir, You are the cause of this Disturbance, and manifestly shew your self an Abettor of Faction, I shall set a Mask upon you, Sir.

J. Robinson. Mr. Bushe, I have known you near this fourteen Years; you have thrust your self upon this Jury, because you think there is some Service for you; I tell you, you deserve to be indicted more than any Man that hath been brought to the Bar this Day.

Bushe.

Busb. No, Sir *John*, there were Threescore before me, and I would willingly have got off, but could not.

Bludw. I said, when I saw Mr. *Busbel*, what I see is come to pass, for I knew he would never yield. Mr. *Busbel*, we know what you are.

May. Sirrah, you are an impudent Fellow; I will put a Mark upon you.

Obser. They used much menacing Language, and behav'd themselves very imperiously to the *Jury*, as Persons not more void of Justice than sober Education: After this barbarous Usage, they sent them to consider of bringing in their Verdict, and after some considerable time they return'd to the Court. Silence was call'd for, and the *Jury* call'd by their Names.

Cla. Are you agreed upon your Verdict?

Jury. Yes.

Cla. Who shall speak for you?

Jury. Our Fore-man.

Cla. Look upon the Prisoners at the Bar: How say you? Is *William Penn* guilty of the Matter whereof he stands Indicted, in manner and form, or not Guilty.

Fore-m. Guilty of speaking in Grace-Church-Street,

Court. Is that all?

Fore-m. That is all I have in Commission,

Rec. You had as good say nothing.

May. Was it not an unlawful Assembly? You mean he was speaking to a Tumult of People there?

Fore-m. My Lord, this was all I had in Commission.

Obser. Here some of the *Jury* seem'd to buckle to the Questions of the Court; upon which *Busbel*, *Hammond*, and some others Oppos'd themselves, and said, They allow'd of no such Word, as an unlawful Assembly in their Verdict; at which the Recorder, Mayor, Robinson, and *Bludworth*, took great occasion to villifie them with most approbious Language; and this Verdict not serving their turns, the Recorder express'd himself thus:

Rec. The Law of England will not allow you to depart till you have given in your Verdict.

Jur. We have given in our Verdict, and we can give in no other.

Rec. Gentlemen, you have not given in your Verdict, and you had as good say nothing; therefore go and consider it once more, that we may make an end of this troublesome Business.

Jur. We desire we may have Pen, Ink, and Paper.

Obser. The Court adjourns for half an hour; which being expir'd, the Court returns, and the *Jury* not long after.

The Prisoners were brought to the Bar, and the *Jury's* Names call'd over.

Cla. Are you agreed of your Verdict?

Jur. Yes.

Cla. Who shall speak for you?

Jur. Our Fore-man.

Cla. What say you? Look upon the Prisoners: Is *William Penn* Guilty in Manner and Form, as he stands Indicted, or not Guilty?

Fore-m. Here is our Verdict: Holding forth a piece of Paper to the Clark of the Peace, which follows.

WE, the Jurors hereafter Named, do find William Penn to be Guilty of Speaking or Preaching to an Assembly, met together in Grace-Church-Street, the 14th of August last, 1670. and that William Mead is not Guilty of the said Indictment.

Fore-m. Thomas Vcer,
Edward Bushel,
John Hammond,
Henry Henley,
Henry Michel,
John Brightman,

Charles Milson,
Gregory Walklet,
John Bailly,
William Lever,
James Damask,
Wil. Plumsted.

Obser. This both Mayor and Recorder resent at so high a rate, that they exceeded the bounds of all Reason and Civility.

May. What will you be lead by such a silly Fellow as Bushel? An impudent Canting Fellow: I warrant you, you shall come no more upon Juries in haste: You are a Fore-man indeed, addressing himself to the Fore-man; I thought you had understood your place better.

Rec. Gentlemen, You shall not be dismiss'd till we have a Verdict that the Court will accept; and you shall be lock'd up without Meat, Drink, Fire, and Tobacco: You shall not think thus to abuse the Court; we will have a Verdict, by the help of God, or you shall Starve for it.

Penn. My Jury, who are my Judges, ought not to be thus menaced; their Verdict should be free, and not compell'd; the Bench ought to wait upon them, but not forestall them: I do desire that Justice may be done me, and that the arbitrary Resolves of the Bench may not be made the measure of my Jury's Verdict.

Rec. Stop that prating Fellow's Mouth, or put him out of the Court.

May. You have heard that he Preach'd, that he gather'd a Company of tumultuous People, and that they do not only disobey the Martial Power, but Civil also.

Penn. It is a great mistake, we did not make the tumult, but they that Interrupted us; the Jury cannot be so Ignorant, as to think, that we met there, with a design to disturb the Civil Peace, since (first) we were by force of Arms kept out of our Lawful House, and met as near it in the Street, as their Soldiers would give us leave; and (secondly) because it was no new Thing, (nor with the Circumstances express'd in the Indictment) but what was usual and customary with us; 'tis very well known that we are a peaceable People, and cannot offer Violence to any Man.

Obser. The Court being ready to break up, and willing to huddle the Prisoners to their Goal, and the Jury to their Chamber, Penn spoke as follows.

Penn. The agreement of twelve Men is a Verdict in Law, and such a one being given by the Jury, I require the Clark of the Peace to Record it, as he will answer it at his Peril: And if the Jury bring in another Verdict, contradictory to this, I affirm they are Perjur'd Men in Law. (and looking upon the Jury said) You are English-men, mind your Priviledge; give not away your Right.

Bush. &c. Nor will we do it.

Obser. One of the Jury-men pleaded Indisposition of Body, and therefore desir'd to be dismiss'd.

May.

May. You are as strong as any of them; Starve them; and hold your Principles.

Rec. Gentlemen, You must be content with your hard Fate; let your Patience overcome it; for the Court is resolv'd to have a Verdict, and that before you can be dismiss'd.

Jury. *We are agreed; we are agreed; we are agreed.*

Obser. The Court swore several Persons to keep the *Jury* all Night without Meat, Drink, Fire, or any other Accommodation; they had not so much as a Chamber-Pot, tho' desir'd.

Cry. O yes, &c.

Obser. The Court adjourns till Seven of the Clock next Morning, (being the Fourth Instant, vulgarly call'd *Sunday*) at which time the Prisoners were brought to the Bar, the Court sat, and the *Jury* call'd to bring in their Verdict.

Cry. O yes, &c. --- Silence in the Court, upon Pain of Imprisonment.

The *Jury's* Names call'd over.

Cla. Are you agreed upon your Verdict?

Jury. Yes.

Cla. Who shall speak for you?

Jury. Our Fore-man.

Cla. What say you; Look upon the Prisoners at the Bar: Is *W. Penn* Guilty of the Matter, whereof he stands Indicted, in Manner and Form as aforesaid, or not Guilty?

Fore-man. *Wil. Penn is Guilty of speaking in Grace-church-street.*

May. To an unlawful Assembly?

Bush. No, my Lord, we give no such Verdict, than what we gave last Night: We have no other Verdict to give.

May. You are a factious Fellow: I'll take a Course with you.

Bladw. I knew Mr. *Bushel* would not yield.

Bush. Sir *Tho.* I have done according to my Conscience.

May. That Conscience of yours would cut my Throat.

Bush. No, my Lord, it never shall.

May. But I will cut yours so soon as I can.

Rec. He has inspired the *Jury*, he has the Spirit of Divination; methinks I feel him; I will have a positive Verdict, or you shall starve for it.

Penn. I desire to ask the Recorder one Question: Do you allow of the Verdict given of *William Mead*?

Rec. It cannot be a Verdict, because you are Indicted for a Conspiracy, and one being found not guilty, and not the other it could not be a Verdict.

Penn. If Not guilty be not a Verdict, then you make of the *Jury* and *Magna Charta* but a meer Nose of Wax.

Mead. How! Is Not guilty no Verdict?

Rec. No, 'tis no Verdict.

Penn. I affirm that the Consent of a *Jury* is a Verdict in Law; and if *W. M.* be not guilty, it consequently follows, that I am clear, since you have Indicted us of a Conspiracy, and I could not possibly Conspire alone.

Obser. There were many Passages, that could not be taken, which pass between the *Jury* and the Court. The *Jury* went up again, having receiv'd a fresh Charge from the Bench, it possible to extort an unjust Verdict.

Cry.

Try. O'ys. Ec.—Silence in the Court.

Court. Call over the *Jury*!—Which was done.

Clav. What say you? Is *William Penn* guilty of the Matter, where he stands Indicted, in manner and form aforesaid, or not Guilty?

Fore-m. Guilty of speaking in Grace-Church-Street.

Rec. What is this to the purpose? I say I will have a Verdict. And speaking to *E. Ruskel*, said, You are a fustious Fellow: I will set a mark upon you; and whilst I have any thing to do in the City, I will set an Eye upon you.

May. Have you no more Wit than to be led by such a pitiful Pet? I will cut his Nose.

Penn. It is intolerable that my *Jury* should be thus menac'd: Is this according to the Fundamental Laws? Are not they my proper Judges by the great Charter of England? What hope is there of ever having justice done, when *Juries* are Threaten'd, and their Verdicts rejected; am concern'd to speak, and grieved to see such arbitrary Proceedings. Did not the Lieutenant of the Tower render one of them worse than a Fellow? And do you not plainly seem to condemn them for factious fellows, who answer not your Ends? Unhappy are those *Juries* who are threaten'd to be Fin'd, and Starv'd, and Ruin'd, if they give not in Verdicts contrary to their Consciences.

Rec. My Lord, you must take a Course with that same Fellow.

May. Stop his Mouth; *Taylor*, bring *Fetters*, and stake him to the Ground.

Penn. Do your Pleasure: I matter not your *Fetters*.

Rec. Till now I never understood the reason of the policy and prudence of the Spaniards, in suffering the Inquisition among them: And certainly it will never be well with us, till something like the Spanish Inquisition be in England.

Obser. The *Jury* being requir'd to go together to find another Verdict, and stedfastly refusing it (saying they could give no other Verdict than what was already given) the Recorder in great Passion was running off the Bench, with these Words in his Mouth, "I protest I will sit here no longer to hear these Things. At which the Mayor calling, Stay, stay, he return'd, and directed himself unto the *Jury*, and spoke as followeth.

Rec. Gentlemen, we shall not be at this Trade always with you: You will find the next Sessions of Parliament, there will be a Law made, that those that will not conform shall not have the protection of the Law. *Mr. Lee*, draw up another Verdict, that they bring it in special.

Lee. I cannot tell how to do it.

Jur. We ought not to be return'd, having all agreed and set our Hands to the Verdict.

Rec. Your Verdict is Nothing; you play upon the Court; I say you shall go together, and bring in another Verdict, or you shall Starve; And I will have you Carried about the City, as in Edward the third's Time.

Fore-m. We have given in our Verdict, and all agreed to it, and if we give in another, it will be a Force upon us to save our Lives.

May. Take them up.

Offic. My Lord they will not go up.

Obser. The Mayor spoke to the Sheriff, and he came off his Seat, and said,

Sher.

